

5/4/2019 3:06 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 3330/649
By: Miaeda Hutchinson
Filed: 5/6/2019 12:00 AM

2019-31371 / Court: 133

NO. _____

MACRINA FLORES
Plaintiff,

V.

WAL-MART STORES TEXAS, LLC
Defendant.

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IN THE DISTRICT COURT

____ JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION WITH REQUEST FOR DISCLOSURES

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Macrina Flores, hereinafter called Plaintiff, complaining of and about Wal-Mart Stores Texas, LLC hereinafter called Defendant, and for cause of action show unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff affirmatively pleads that she seeks monetary relief of \$200,000.00 to \$1,000,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest and attorney fees and intends that discovery be conducted under Discovery Level 2.

PARTIES AND SERVICE

2. Plaintiff, Macrina Flores, is an individual who resides in Mexico.

3. Defendant WAL-MART STORES TEXAS, LLC, a Corporation based in Texas, is organized under the laws of the State of Texas, and service of process on the Defendant may be effected pursuant to article 2.11(A) of the Texas Business Corporation Act, or its successor statute, sections 5.201 and 5.255 of the Texas Business Organizations Code, by serving the registered agent of the corporation, CT Corporation System, at CT Corporation System, at 1999 Bryan St., Suite 900, Dallas, Texas 75201, its registered office. Service of said Defendant as

1



described above can be effected by personal delivery.

JURISDICTION AND VENUE

4. The subject matter in controversy is within the jurisdictional limits of this court.

5. This court has jurisdiction over the parties because Defendant is a Texas corporation.

6. Venue in Harris County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

7. On or about December 7, 2017, Plaintiff was shopping on the premises of the Defendant when she slipped and fell on a plastic hanger on the ground. As a result of the accident, Plaintiff sustained serious personal injuries for which she had to seek the care of medical professionals.

LIABILITY OF DEFENDANT WAL-MART STORES TEXAS, LLC

8. At the time and on the occasion in question, Wal-Mart Stores Texas, LLC, occupied, controlled, leased, managed, operated, and/or owned Wal-Mart Stores Texas, LLC, located at 9235 North Sam Houston Parkway East, Humble, Texas 77396. Defendant and its employees failed to use ordinary care by various acts of omissions and/or commissions, including but not limited to the following, each of which singularly or in combination, was a proximate cause of the incident in question:

- A. In failing to monitor the condition of the floor in the store;
- B. In failing to promptly clean up floor;
- C. In failing to properly train its employees;

D. In failing to store materials and maintain merchandise in a manner to avoid harm to customers;

E. In failing to warn others that a dangerous condition existed; and

F. In creating a hazard to others.

9. Such negligence, either singularly or in combination, proximately caused Plaintiff's injuries and resulting damages.

10. Nothing Plaintiff did or failed to do was a proximate or contributing cause of the incident made the basis of this suit.

**PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST
WAL-MART STORES TEXAS, LLC**

11. Plaintiff incorporates all preceding paragraphs by reference as if set forth in full herein.

12. Defendant had a duty to Plaintiff because it owns and controls the store at which the accident took place.

13. Defendant failed to act in accordance with the appropriate standard of care causing Plaintiff, in invitee, to suffer physical and emotional injuries. Defendant knew or reasonably should have known of the danger presented when display items are left on the ground in areas designed for customers to shop. Defendant breached its duty by failing to warn Plaintiff of the condition and failing to make the premises reasonably safe.

14. All of the foregoing acts and omissions on the part of the Defendant constitute a direct and proximate cause of the injuries suffered and damages incurred by Plaintiff.

PREMISES LIABILITY

15. Plaintiff Macrina Flores was an invitee on the premises in question occupied,

controlled, leased, managed, operated, and/or owned by Defendant. Defendant knew, or in the exercise of ordinary care, should have known of an unreasonable dangerous condition existing on the floor, which posed an unreasonable risk or harm to visitors, including Plaintiff, Macrina Flores, but failed to inspect and make safe or adequately warn her of the condition.

16. In the alternative, Plaintiff would show that she was a licensee on the premises in question occupied, controlled, leased, managed, operated, and/or owned by Defendant. Defendant knew of an unreasonable dangerous condition existing on the floor, which posed an unreasonable risk of harm to the general public, including Plaintiff Macrina Flores, but failed to make safe or adequately warn her of the condition. Plaintiff was without knowledge of the dangerous condition of the premises prior to the incident in question.

PROXIMATE CAUSE

17. Each and every, all and singular of the foregoing acts and omissions, on the part of Defendant, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

DAMAGES FOR PLAINTIFF, MACRINA FLORES

18. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendant's acts as described herein, Plaintiff Macrina Flores was caused to suffer personal injuries more fully set forth below.

19. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Macrina Flores has incurred the following damages:

- a. The physical pain and mental anguish sustained from the date of incident to the time of verdict herein;
- b. The physical pain and mental anguish which, in reasonable medical probability, will be suffered after the date of verdict herein;

- c. The loss of earnings, or loss of earning capacity, sustained from the date of incident to the time of verdict herein;
- d. The reasonable and necessary costs of medical care and treatment, including doctors, hospitals, nurses, medicines, and other services and supplies from the date of the collision to the time of verdict herein;
- e. The reasonable and necessary costs of medical care and treatment, including doctors, hospitals, nurses, medicines, and other services and supplies, which, in reasonable probability will be incurred in the future after the date of verdict herein;
- f. Physical impairment which has been sustained, resulting in lessened use and/or movement of various parts of Plaintiff's body from the date of the incident to the date of verdict herein;
- g. The physical impairment which, in reasonable probability, will be sustained to various parts of Plaintiff's body, resulting in lessened use and/or movement of same in the future after the date of verdict herein;
- h. Physical disfigurement which has been sustained, resulting in lessened use and/or movement of various parts of Plaintiff's body from the date of the incident to the date of verdict herein; and
- i. The physical disfigurement which, in reasonable probability, will be sustained to various parts of Plaintiff's body, resulting in lessened use and/or movement of same in the future after the date of verdict herein.

20. By reason of the above, Plaintiff, Macrina Flores has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

REQUEST FOR DISCLOSURE

21. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff's request that each and every Defendant disclose, within fifty (50) days of service of this request, the information and material described in Rule 194.2(a) through (l).

PRESERVING EVIDENCE

22. Plaintiff hereby requests and demand that Defendant preserves and maintains all

evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit or the damages resulting there from, including statements, photographs, videotapes, audiotapes, surveillance or security tapes or information, business or medical records, incident reports, tenant files, periodic reports, financial statements, bills, telephone call slips or records, estimates, invoices, checks, measurements, correspondence, facsimiles, email, voice mail, text messages, and evidence involving the incident in question, and any electronic image or information related to the referenced incident or damages. Failure to maintain such items will constitute "spoliation" of the evidence.

NOTICE OF USE

23. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendant is hereby notified that Plaintiff intends to use all documents produced by Defendant in response to written discovery in pretrial proceedings and trial. Defendant is required to assert any objection to the authenticity of any document Defendant produces within ten days of its production.

DESIGNATED E-SERVICE EMAIL ADDRESS

24. The following is the undersigned attorney's designated e-Service email address for all e-served documents and notices, filed and unfiled, pursuant to Tex. R. Civ. P. 21(f)(2) & 21a: Litigation@TheHadiLawFirm.com. This is the undersigned's only e-Service email address, and service through any other email address will be considered invalid.

REQUEST FOR DEPOSITION DATES

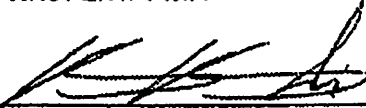
25. Pursuant to Rule 199 of the Texas Rules of Civil Procedure, Plaintiff request that each and every Defendant disclose, within fifty (50) days of service of this request, dates that Defendant's Corporate Representative is available for Plaintiff to take Defendant's deposition.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Macrina Flores, respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

THE HADI LAW FIRM

By: 

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Attorneys for Plaintiff

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

DATE FILED: May 4, 2019



**Service of Process
Transmittal**

05/09/2019

CT Log Number 535433629

TO: Kim Lundy Service of Process, Legal Support Supervisor
Walmart Inc.
702 SW 8th St, MS#0215
Bentonville, AR 72716-6209

RE: Process Served in Texas

FOR: Wal-Mart Stores Texas, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Flores Macrina, Pltf. vs. Wal-Mart Stores Texas, LLC, Dft.

DOCUMENT(S) SERVED: *

COURT/AGENCY: *, *
Case # 201931371

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition - *

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 05/09/2019 at 10:09

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next following the expiration of 20 days after service

ATTORNEY(S) / SENDER(S): *, *
*, **

ACTION ITEMS: CT has retained the current log, Retain Date: 05/13/2019, Expected Purge Date: 05/18/2019
Image SOP
Email Notification, Kim Lundy Service of Process ctlawsuits@walmartlegal.com

SIGNED: C T Corporation System
ADDRESS: 1999 Bryan Street
Suite 900
Dallas, TX 75201
TELEPHONE: 214-932-3601

RECEIPT NUMBER 0.00TRACKING NUMBER 73621758 CIV.CAUSE NUMBER 201931371

PLAINTIFF: FLORES, MACRINA

VS.
DEFENDANT: WAL-MART STORES TEXAS LLCIn The 133rd
Judicial District Court of
Harris County, Texas

CITATION CORPORATE

THE STATE OF TEXAS
County of HarrisTO: WAL-MART STORES TEXAS LLC (CORPORATION) MAY BE SERVED THROUGH ITS
REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN ST SUITE 900 DALLAS TX 75201Attached is a copy of PLAINTIFFS' ORIGINAL PETITION WITH REQUEST FOR DISCLOSURES.This instrument was filed on the 6th day of May, 2019, in the
above cited cause number and court. The instrument attached describes the claim against you.**YOU HAVE BEEN SUED;** you may employ an attorney. If you or your attorney do not file a written answer with the
District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were
served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This Citation was issued under my hand and seal of said Court, at Houston, Texas, this 7th day of
May, 2019.Issued at request of:
HADI, HUSEIN
7100 REGENCY SQUARE BLVD, STE
140
HOUSTON, TX 77036
TEL: (832) 433-7977
Bar Number: 24067641*Marilyn Burgess*
MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
P.O. Box 4651, Houston, Texas 77210

Generated by: HUTCHINSON, MIAEDA A CCG//11223739

OFFICER/AUTHORIZED PERSON RETURN

I received this citation on the 8 day of May, 2019, at 9 o'clock AM., endorsed
the date of delivery thereon, and executed it at 1999 Bryan Street Suite 900 Dallas Texas 75201
in Dallas County, Texas on the 9 day of May, 2019, at 9 o'clock AM.,
by delivering to Wal-Mart Stores Texas LLC (Corporation), by delivering to its
CT Corporation System, in person, whose name is _____
a true copy of this citation, with a copy of the _____ Petition attached,
and with accompanying copies of _____I certify that the facts stated in this return are true by my signature below on the 9 day of May, 2019.

FEE: \$ _____

By: _____

Printed Name: David Valfer SCH 4688

Affiant Other Than Officer

As Deputy for: _____

On this day, _____, known to me to be the person whose signature
appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was
executed by him/her in the exact manner recited on the return.SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____, 2019.

Notary Public